

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)	Case No. 09-45523
)	
Bruce E. Hopson and)	Chapter 7
Linda K. Hopson)	
)	
Debtors-Movants,)	Motion to Avoid Lien
)	Pursuant to
vs.)	11 U.S.C. 522(f)(1)(A) and
)	11 U.S.C. 522(f)(2)(A)
US Bank NA,)	
)	Motion No. _____
Respondent.)	

**MOTION TO AVOID LIEN AGAINST EXEMPT PROPERTY
UNDER SECTION 522(f) AND NOTICE OF MOTION**

PLEASE TAKE NOTICE: ANY RESPONSIVE PLEADING IN OPPOSITION TO THIS MOTION/PLEADING MUST BE FILED IN WRITING NO LATER THAN TWENTY (20) DAYS FROM THE DATE OF SERVICE OF THIS MOTION/ PLEADING AS SHOWN ON THE CERTIFICATE OF SERVICE. (See L.B.R. 9013-1 b.; 9061-1 B) THE RESPONSE MUST BE IMMEDIATELY SERVED UPON THE UNDERSIGNED AND UPON ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A. THE COURT MAY GRANT THE MOTION/PLEADING WITHOUT FURTHER NOTICE TO ANY PARTY UPON EXPIRATION OF THE RESPONSE PERIOD IF NO RESPONSE IF FILED.

IF A RESPONSE OR OBJECTION IS FILED, THE MOVANT, APPLICANT OR CLAIM OBJECTOR SHALL SET THE MATTER FOR HEARING AND PROVIDE NOTICE THEREOF TO THE RESPONDENT AND ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A.

COME NOW Debtors, Bruce and Linda Hopson, by and through their attorney, pursuant to Fed.R.Bank.P 4003(d), Fed.R.Bank.P 9014, and Local Bankruptcy Rule 4003-2B, and for their Motion to Avoid Lien, states as follows:

1. That the Creditor-Respondent, US Bank NA has a judicial lien in the amount of \$7,601.00 that attached against the real property of Debtors located at 8525 Vasel Ave. St. Louis, Missouri on or about January 19, 2005, which is held as the primary residence for the Debtors herein.

2. That the judicial lien of the Creditor-Respondent impairs an exemption authorized under RSMo § 513.475, which Debtors would have been entitled under the laws of the State of Missouri, that such exemptions have been claimed by the Debtors in this case in the amount of \$15,000.00, and have been allowed.

3. That the fair market value of Debtors' real estate located at 8525 Vase Ave. St. Louis, Missouri is no more than \$90,000.00. (See Schedule A)

4. "The owner of real estate may testify to the fair market value of his land even though he does not qualify as an expert. The owner has the benefit of a presumption that he is familiar with the property and has a basis for his opinion of its fair market value." See *Mo. Ex Rel Mo. Highway & Transportation Comm'n v. Menley*, 778 S.W.2d 10,11 (Mo. App. 1989).

5. Pursuant to 11 U.S.C. 522(f)(2)(A), the total value of all non-avoidable liens encumbering said property, Respondent's judgment lien, and the "Homestead Exemption" embodied in RSMo. 513.475, exceed the value of the real property by more than the value of Respondent's judgment lien standing alone.

<i>Citimortgage (1st) Mortgage:</i>	<i>\$55,547.95</i>
<i>US Bank (2nd) Mortgage:</i>	<i>\$10,213.00</i>
<i>Midwest Bank Center</i>	<i>\$110,000.00</i>
<i>Respondent's Judgment Lien:</i>	<i>\$7,601.00</i>
<i>Missouri Homestead Exemption:</i>	<i><u>\$ 15,000.00</u></i>
TOTAL OF LIENS, JUDGMENT & EXEMPTION	<u>\$198,361.95</u>

*\$198,361.95 - \$90,000.00 = **\$-108,361.95**

6. That the Debtors are entitled to avoid the judicial lien of Creditor-Respondent in Debtors' real estate, under the provisions of 11 U.S.C. 522(f)(1)(A) and 11 U.S.C. 522(f)(2)(A).

WHEREFORE, the Debtors pray the Court enter an Order granting Debtors' Motion to Avoid Lien Against Exempt Property Under Section 522(f)(1)(A) and 522(f)(2)(A), and to avoid the lien of Creditor-Respondent in the real estate of Debtors located at 8525 Vasek Ave. St. Louis, Missouri.

Respectfully Submitted,

By: /s/ Robert J. Lawson
David N. Gunn, EDMO #502943; MO #54880
Robert J. Lawson, #551534, #51935
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion and Notice were served upon the persons listed below by first class mail, postage prepaid, on this 23rd day of September, 2009.

/s/ Melissa M. Collins

Melissa M. Collins

Via cm/ecf

Thomas O'Loughlin II
1736 N. Kingshighway
Cape Girardeau, MO 63701

Office of U.S. Trustee
111 South Tenth Street
Suite 6353
St. Louis, MO 63102

Via regular mail

CT Corporation Systems
120 S. Central Ave.
Clayton, MO 63105
(Registered Agent for Respondent)